

MONITORING POLICY OF INTERNATIONAL BUSINESS VALUERS ASSOCIATION (IBVA)

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INTRODUCTION

Under Section 247 of the Companies Act, 2013, a Registered Valuer would carry out valuation in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets or net worth of a company or its liabilities, as per the rules.

The Ministry of Corporate Affairs (MCA) has notified the Companies (Registered Valuers and Valuation) Rules, 2017 on 18th October, 2017 updated till the date of application. These rules contain various aspects pertaining to Registered Valuers and Valuation. For the success of these rules, organisation (IBVA) shall have a Monitoring Policy under Governing Board through Monitoring Committee to monitor the professional activities and conduct of members.

DEFINITIONS

In this policy, unless the context otherwise requires, -

- (1) 'Organisation' means International Business Valuers Association (IBVA) recognised under sub-rule (5) of rule 13;
- (2) 'Authority' means an authority specified by the Central Government under section 458 of the Companies Act, 2013 to perform the functions under these rules (means the Insolvency and Bankruptcy Board of India established under the Insolvency and Bankruptcy Code, 2016);
- (3) 'Rules' Companies (Registered Valuers and Valuation) Rules, 2017 (4) 'Board of Directors' means Governing Board of IBVA;
- (5) 'Registered Valuer' means Registered Valuers enrolled with the IBVA and registered with the Registration Authority under Rule 7(6) for carrying out valuation of assets belonging to an assets or classes of assets;
- (6) 'Member' means a person enrolled with IBVA as Registered Valuers;
- (7) 'Monitoring Committee' means a committee constituted in terms of sub-rule (3) of rule 12 and clauses (f) and (g) of rule 14 read with Model Bye Laws of a registered valuers organisation of Companies (Registered Valuers and Valuation) Rules, 2017;
- (8) 'Policy' means the Monitoring Policy of IBVA as per Companies (Registered Valuers and Valuation) Rules, 2017.

OBJECTIVE

The objective of monitoring is to gather sufficient information and records to enable the Monitoring Committee, Board of Directors of IBVA and Authority to monitor professional activities and conduct of members for their adherence to the provisions of the Act, rules, regulations and guidelines issued thereunder these bye-laws, the Code of Conduct and directions given by the Governing Board.

The objective of the policy is to create the framework for implementation of model bye-laws and Governing Board of organization under Companies (Registered Valuers and Valuation) Rules, 2017 to provide for the following

- (a) The frequency of monitoring;
- (b) The manner and format of submission or collection of information and records of the members, including by way of inspection;

- (c) The obligations of members to comply with the Monitoring Policy;
- (d) The use, analysis and storage of information and records;
- (e) Evaluation of performance of members; and
- (f) Any other matters that may be specified by the Governing Board.

ROLES AND RESPONSIBILITIES OF STAKEHOLDERS

Authority

The authority shall monitor the performance of registered valuers organisation (RVO), Registered Valuer and Information Utilities and pass any directions as may be required for compliance of the provisions of the Act/these rules and the Regulations issued hereunder.

IBVA (RVO) - Monitoring Committee

As per Model Bye-Laws for a registered valuers organisation of companies (Registered Valuers and Valuation) Rules, 2017 adopted by IBVA it is endowed with an obligation to formulate a "Monitoring Policy" to monitor the professional activities and conduct of members for their adherence to the provisions of the Act, Rules, Regulations and Guidelines issued there under, these Bye-Laws, the Code of Conduct and directions given by the Governing Board.

Regulation 17 of Rules (Model Bye Laws of a registered valuer organisation) provides that the Monitoring Committee shall review the information and records submitted by the members in accordance with the Monitoring Policy.

Member

The Regulation 16 of Rules (Model Bye Laws of a registered valuers organisation) provides that a member shall submit information, including records of ongoing and concluded engagements as a registered valuer, in the manner and format specified by the Organisation, at least twice a year stating inter alia, the date of assignment, date of completion and Valuation Document Identification Number (VDIN) of valuation assignment and valuation report.

MONITORING PROCEDURE

The Organisation shall have procedural framework comprising of collection of the information and documents both from the Registered Valuers and from independent sources to monitor the professional activities and conduct of its members.

The scope of procedure is as follows:-

- (a) Registered Valuers who have not undertaken any appointments are required to file static data only.
- (b) Registered Valuers who are engaged in the assignment are required to file dynamic data.

Classification of data required for Monitoring

1. Static Data

2. Dynamic Data

1. Static Data:

This consists of information furnished at the time of enrolment, which is less likely to change but is material in terms of the eligibility of the Member to continue as a Registered Valuer (RV), eg., Employment Status, fit and proper, declaration and undertaking of no adverse reporting against the member, Conviction, Change of Nationality, Suspension or Restoration of registration by IBBI, etc.

(i) Periodicity of Submission:

- (a) At the time of enrolment
- (b) At the time of renewal of membership
- (c) As and when called upon by IBVA

(ii) Periodicity of submission of Changes in Static Data

Immediately on any change in Static Data, as provided above, but in any case not later than 15 days of the occurrence of the change.

2. Dynamic Data:

Every RV/Member is required to report each assignment of an entity twice a year i.e., as on 30th of Sept and 31st of March of every financial year in the prescribed format at Annexure- 1 (ii).

The report should, inter alia, also include comments for all engagements being handled, on the following:

- Non adherence to directions/regulation/law, if any, with reasons
- Reasons for slippages in time lines, if any, separately for all cases

The RV/Members shall immediately, submit disclosures to IBVA in accordance to the Circulars issued by IBBI from time to time of the following:

- Number and status of such engagements being handled by the RV
- Any conflict of interest likely to arise.

Periodicity of submission

a) Half Yearly Report as on 30th September and 31st March of every financial year within 15 days of the close of period, condonation may be given by the competent committee of IBVA upon application by member with reasons to be recorded by writing.

Apart from the above, the RV will be required to report within 24 hours:

- Any warnings or penalties or strictures imposed by the competent authority
- Initiation of legal action against the member

Manner / Format of Submission of Information

Information will be submitted by the RVs on the formats placed at Annexure 1(i) for Static Data and 1(ii) for Dynamic Data.

Use, Analysis and Storage of Information and Records

Monitoring Committee shall appoint a Monitoring Officer whose role is to perform:-

- (a) Maintain the data / reports received from Registered Valuer.
- (b) Receive and communicate with all stakeholders on behalf of monitoring committee.
- (c) Prepare summary reports as required under the Act/Rules for onwards submission to board of directors, IBVA and Authority.
- (d) Prepare summary reports regarding non-compliance of the monitoring policy by the RVs and present before the monitoring committee on monthly basis.
- (e) Correspondence on behalf of the monitoring committee with members.

A designated email Id would be provided on the website on IBVA enabling members to submit all the information as required under this policy or the information can be submitted by registered post.

Reports to be submitted to Authority

IBVA shall submit a report to authority in the manner specified by the authority with information collected during monitoring period.

Storage of information and records

The data so collected shall be stored and recorded in a physical and/or digital manner for a period of 5 years, having due regard for:

- (a) ensuring the privacy of members,
- (b) confidentiality of information received, except when disclosure of information is required by the Authority or by law and
- (c) in a non-discriminatory manner.

Monitoring Visits

For each Registered Valuer the Organisation in pursuance of monitoring objective, a scheme to undertake monitoring visits of RVs for inspection to include review of compliance of obligations under the Act/Rules. The frequency of such visits will be determined using a risk-based approach and will have regard to the following:

- (a) Review of the information / documents received from the RVs
- (b) Any information received from stakeholders and regulators.
- (c) Information received from third party resources.
- (d) On the direction of Board of IBVA.

The monitoring committee may direct the inspection to be carried out and also prescribing the scope of inspection by any member of the committee, officer / member of the Board of IBVA, members (RV), a Registered Valuer or a Registered Valuers Entity individually or collectively or in any manner as determined by the Monitoring Committee.

On completion of a monitoring visit to a registered valuer, the Monitoring Team shall submit its report setting out the scope of the monitoring visit, the extent to which the registered valuer complied with the terms of reference of the Team and relevant law and practice and other legislation, the extent to which professional competence has been tested and achieved and any other information which the Monitoring Team would like to add in there port.

Review of Information, Records and Documents

- (a) The Monitoring Committee shall review the information and records submitted by the members in its meeting.
- (b) The Monitoring Committee shall take all adequate measures to preserve the privacy and confidentiality of all submitted records unless required by the Board.

Review of the Monitoring Policy

The Monitoring Committee will take reasonable steps in seeking to confirm compliance on the part of Registered Valuers with all relevant aspects of Act, Rules, Regulations and Guidelines issued under the Act, and other legislations that may impact an individual while acting as a Registered Valuer. The above includes the requirements of the Code of Conduct prescribed under clause (g) of rule 7 and clause (d) of sub-rule (2) of the Companies (Registered Valuers and Valuation) Rule, 2017, which have been adopted by the Organisation.

The implementation of the Policy will be monitored and reviewed by the Monitoring Committee at half-yearly intervals by the Governing Board of IBVA.

The Monitoring Policy may be amended from time to time by the Governing Board and will remain in force till further instructions of the Governing Board or Authority.

Obligations to comply with the Monitoring Policy

- (a) Every Valuer registered with IBVA is obliged to comply with the requirements of the Monitoring Policy.
- (b) The Monitoring Committee shall review the information and records submitted by the RV with the objective of monitoring the professional activities and conduct of each member.
- (c) Falsification, misreporting or non-reporting of information required under the Monitoring Policy or sought separately by the Monitoring Committee or any other competent authority may lead to initiation of Disciplinary Proceedings against the member.
- (d) The guidelines set here should be strictly adhered to, failing which action against the Professional may be recommended by the Monitoring Committee to the Disciplinary Committee of IBVA.

Annexure 1(i)
Reporting Format of Static Data

Name:

Enrolment Number:

Address for Correspondence:

Email

Mobile:

Sr. No.	Static Data Change Particulars	Date of Change	Reason for Change	Implications, if any, for Current/ Concluded Assignments

Remarks:

Date:

Name and Signature of RV

Explanatory Notes:

1. Static Data consists of information furnished at the time of enrolment, which is less likely to change but is material in terms of the eligibility of the Member to continue as a Registered Valuer (RV), e.g., Employment Status, Conviction, Change of Nationality, Professional Address, Suspension or Restoration of registration by IBBI.

2. Any change in the Static Data will need to be advised immediately to the RVO, but in no case later than 15 days of the above change having occurred or its having come to the knowledge of the Member.

3. In all cases, the RV /Member will be required to submit a fresh Status report to the RVO at the time of his annual renewal of Membership.

4. Periodicity of Submission:

Static data shall be provided by the RVs in the following events:

- a) At the time of enrolment;
- b) Updation of static data annually
- c) Updation of static data if there is a change and
- d) At the time of renewal of membership

5. Periodicity of submission of **Changes** in Static Data

Immediately on any change in Static Data, as defined earlier, but in any case **not later than 15 days** of the occurrence of the change on the format given above.

Annexure 1 (ii)

Reporting Format of Dynamic Data

Name:

Enrolment Number:

Address for Correspondence:

Email/Mobile:

Half Yearly Monitoring Report of Registered Valuers as on 30th Sept/31st March

Sr No	Name of Appointing Entity (Not for Public Domain)	Date of Appoi ntme nt	Asse t Clas s	Valuat ion Date	Purpo se of Valua tion ^	Expecte d Date of Comple tion \$	Valua tion Docu ment Ident ificati on Num ber (VDI N)**	Adver se rema rks, if any @	Fee (Not for Public Domai n)	Transa ctions with Third Parties #	Transa ctions with Stake holder s *

Valuation includes valuation review services provided by RV

^Purpose of Valuation includes Valuation under Companies Act 2013, IBC 2016, Accounting Purpose, Arbitration, Family Disputes, transactional purpose, FEMA, Income Tax Act etc.

*Stakeholders include Corporate Debtor, Financial Creditors, Operational Creditors, Resolution Applicants etc.

**Valuer is required to give VDIN of Engagement Letter as well as of Valuation Report.
Where the assignment is not yet completed valuer is required to given VDIN of
Engagement Letter

#Third parties include parties other than stakeholders.

\$ Expected date of Completion includes date of completion

@ Adverse Remarks refers to the remarks of the Registered Valuer.

Date

Name and Signatures of RV

Periodicity of Submission:

Half Yearly as on 30th of Sept and 31st of March of every financial year

Note: copy of valuation report need not be enclosed.